

SCHWARTZ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

SDMS Document



109888

-----X
IN THE MATTER OF

ALFA INK & CHEMICAL CORPORATION
ALL PURPOSE ROLL LEAF CORPORATION
ALMO ANTI-POLLUTION SERVICES
MACK BARNES

CAPITOL RECORDS, INC.
CHEMICAL POLLUTION CONTROL CORP.
CHROMALLOY CORP.

COMET CHEMICAL CO., INC.
CONESTOGA FUELS, INC.
CONTINENTAL GROUP, INC.
DELAWARE CONTAINER CO., INC.

GENERAL FOODS CORP.
GILBERT FREEMAN CO.
HAZARDOUS WASTE DISPOSAL, INC.
HEXCEL FINE ORGANICS, INC.

INMAR ASSOCIATES
JONAS WASTE REMOVAL
KIRKER CHEMICAL CO.

MATLACK, INC.
MATTIACE INDUSTRIAL SALES CO., INC.
MCKENZIE CHEMICAL WORKS, INC.
MONROE CHEMICAL CO.

OLIN CORPORATION
PHILLIP A. HUNT CHEMICAL CORP.
RANDOLPH PRODUCTS CO.
RECLAMATION RESOURCES, INC.

S & W WASTE, INC.
SOUTHLAND CHEMICAL CORPORATION
SYNKOTE PAINT CO.

SYNTEX BEAUTY CARE, INC.
VIKING WIRE CORP.

Respondents.

Proceeding Under Section 106(a)
of the Comprehensive Environ-
mental Response, Compensation
and Liability Act, 42 U.S.C.
§9606(a)
-----X

Index No. II CERCLA-60102

JURISDICTION

The following Administrative Order is issued to the above-captioned Respondents pursuant to the authority vested in the President of the United States by §106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. §9606(a), which authority was delegated to the Administrator of the United States Environmental Protection Agency (EPA) by Executive Order 12316, 46 Fed. Reg. 42237 (August 20, 1981) and duly redelegated to the Regional Administrator, EPA Region II on March 17, 1983. Pursuant to Section 106(a) of CERCLA, the State of New Jersey Department of Environmental Protection (NJDEP) has been notified of this Order.

DEFINITIONS

1. As used in this Order, unless otherwise clearly required by context, the following terms shall have the following meanings:

A. Respondents shall include jointly and severally, all individuals, companies, partnerships, or other business entities listed in the caption of this Order.

B. Generator Respondents shall include all Respondents with the exception of Mack Barnes, Inmar Associates, and Transporter Respondents.

C. Transporter Respondents shall include any Respondents who accepted hazardous substances for transport by air, rail, highway, water, etc. to the facility.

D. Owner/Operator Respondents shall include Inmar Associates and Mack Barnes.

E. Facility shall mean real property located at 216 Paterson Plank Road, Carlstadt, New Jersey and occupying Block 124, Lots 1 through 5 on the tax map of Bergen County, Township of Carlstadt.

F. CERCLA shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq., P.L. 96-510.

G. Hazardous Substance shall mean any substance that falls within the definition of "Hazardous Substance" as defined in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

H. Designated Coordinator shall mean the person designated by Respondents which person shall be charged with the duty of, at all times, being knowledgeable about and overseeing the progress of all work performed pursuant to this Order and EPA

Administrative Order, Index No. II-CERCLA 50114.

I. National Contingency Plan (NCP) shall mean the National Oil and Hazardous Substances Contingency Plan promulgated by EPA pursuant to §105 of CERCLA, 42 U.S.C. §9605, and codified at 40 CFR Part 300, and all amendments or modifications thereto.

J. Remedial Action shall have the meaning set forth in the portion of the NCP found at 40 CFR §300.6.

FINDINGS

2. Each Respondent is a person, as defined in §101(21) of CERCLA, 42 U.S.C. §9601(21), and a responsible party under Section 107(a) of CERCLA, 42 U.S.C. §9607(a). Each Respondent is jointly and severally liable, with each and every other Respondent, for carrying out the provisions of this Order.

3. The hazardous substances referred to in this Order shall mean any substances meeting the definition of "Hazardous Substance" as defined in §101(14) of CERCLA, 42 U.S.C. §9601(14).

4. Inmar Associates, Inc. is a corporation organized under the laws of the State of New Jersey and doing business in the State of New Jersey, which owns a parcel of property in Carlstadt, Bergen County, New Jersey. The property is bordered on the north by Peach Island Creek, a surface water of the United States, on the south by Paterson Plank Road, on the west by Gotham Parkway, and on the east by Carolina Trucking Company ("the Inmar Property"). The property consists of Block 124, Lots 1 through 5, Township of Carlstadt.

5. During the period commencing in or about 1970 and continuing until in or about 1980, the Inmar property was leased by Scientific Chemical Processing, Inc. (a corporation organized under the laws of the State of New Jersey), which operated on the property a waste collection, transportation, treatment and disposal service. The property leased by Inmar Associates, Inc. to Scientific Chemical Processing, Inc. constitutes a "Facility," as that term is defined in §101(9) of CERCLA, 42 U.S.C. §9601(9). The property shall hereinafter be referred to as "the site" or "the facility."

6. During the period of its operation, Scientific Chemical Processing, Inc. accepted, transported, transferred, stored, reprocessed, reclaimed, treated, blended, and disposed of certain materials which contained hazardous substances.

7. The Owner/Operator Respondents to this Order owned the facility and/or operated businesses at the facility which engaged in the transfer, storage, reprocessing, reclamation, reuse, blending, treatment, and/or the disposal of hazardous

substances.

8. The Generator Respondents to this Order made arrangements with transporters and/or Scientific Chemical Processing, Inc. for the transport, storage, treatment or disposal of hazardous substances, which include certain substances chemically identical to or similar to those released and/or in danger of being released from the facility to the environment.

9. The Transporter Respondents to this Order accepted hazardous substances for transport to the facility.

10. Based upon inspections performed at the site by the NJDEP and EPA between 1977 and 1984, sampling and chemical analyses, and environmental surveys conducted at the site, EPA has determined that the material which has been released, or threatens to be released, into the environment from spills and/or leaking containers at the site, contains hazardous substances, and that surface water, ground water, air and soil at the site have been or threaten to be contaminated. Specifically, analyses of waste samples performed during 1979 and a NJDEP site inspection report dated October 10, 1980 (which cites a June 1980 inventory of waste at the site) indicate the following wastes and/or constituents of waste were released or threatened to be released from the site: PCB-containing materials, acids, benzene, chloroform, trichloroethylene, toluene, styrene, xylenes, carbon tetrachloride, chloroethane, ethylbenzene, ethylacetate, isopropanol, methylene chloride, methyl ethyl ketone, methyl isobutyl ketone, phenolic resin, tetrachloroethane, tetrachloroethylene, trichloroethane, arsenic, mixed solvents, paint sludge and solvent sludge.

11. Based on the aforementioned inspections, sampling and chemical analyses, and environmental surveys, the New Jersey Supreme Court in October 1980 refused to stay the effectiveness of NJDEP's order that Scientific Chemical Processing, Inc. cease operations.

12. At that time, there were approximately 56 tanks and/or tank trailers and 50 drums containing hazardous substances at the site. According to an Inventory prepared by Scientific Chemical Processing, Inc., in December 1980, various wastes containing hazardous substances still remained at the site, including, but not limited to, solvents and thinners, etching solutions, methanol/phosphoric acid solutions, sodium sulfate solutions, and fuel residues. During 1984, many of the aforesaid tanks/tank trailers and drums were removed from the site by Inmar Associates, under NJDEP supervision. NJDEP reported that many were severely discolored, indicating leaks, and some of the tanks had makeshift patches.

13. Presently, there are 4 tanks and 1 tank trailer remaining at the site. Lab analyses performed for Inmar Associates indicate that the liquids, solids, and/or sludges in these

tanks/tank trailer contain PCBs; these analyses showed PCB concentrations ranging as high as 91,000 parts per million (ppm) in one sample of sludge. One of the tanks shows evidence of leakage, and another tank has a half-inch wide section cut from its circumference at a height of approximately four feet above the ground. The lids on both of these tanks currently are open to the environment, enabling rainwater to come in contact with the PCB-containing liquids, solids, and sludges. There is an inadequate containment system in place around the tanks.

14. EPA has determined that the substances listed in paragraphs 10, 12, and 13 have been shown to cause a variety of adverse effects to exposed populations. For example, PCBs have been demonstrated to cause cancer in animals and are suspected human carcinogens. EPA has determined that PCBs can cause liver damage, and dermatological abnormalities such as chloracne and hyperpigmentation. PCBs bioaccumulate, i.e., are retained in human and animal tissues at concentrations in excess of exposure levels. PCBs are extremely stable and persistent in the environment. Benzene exposure has been closely linked to leukemia in humans, and may also be mutagenic. Carbon tetrachloride, chloroform, and tetrachloroethylene cause cancer in animals, are suspected human carcinogens, and can cause liver and kidney damage. Ethylbenzene and xylenes can adversely effect the central nervous system, causing dizziness, unconsciousness, and death due to respiratory failure.

15. The presence of such hazardous substances at the site, and their past and/or potential future migration to surrounding soils, surface water, and groundwater, constitute an actual release or threatened release from the facility within the meaning of Section 101(22) of CERCLA, 42 U.S.C. §6901 (22).

16. Based on present information, EPA has determined that:

(a) The site is located on a filled-in section of the Hackensack Meadows. The fill, which consists of organic silt, is underlain by clay deposits interspersed with beds of sand and gravel. These clay deposits, and sand and gravel beds are discontinuous and may not comprise a major confining unit. The bedrock at the site is the Brunswick Formation, which underlies the clay, sand and gravel deposits at depths ranging from approximately 40 to 120 feet in the vicinity of the site.

(b) The two major aquifers in the area of the site are the Brunswick Formation and the Quarternary age stratified drift located along river channels. The Brunswick Formation yields water from fractures in the rock. Fracturing decreases with depth, and most of the groundwater is produced by the upper, highly fractured part of the formation.

(c) There are approximately 21,000 people living within 3 miles of the site. The primary water supply for this population is groundwater. The nearest well is located about 4000 feet from the site.

(d) The hydrogeologic conditions described in paragraphs 15 and (b) constitute conditions which may enhance the vertical transmission of hazardous substances in the groundwater. The groundwater in the area is used by the local populations for drinking purposes.

17. Peach Island Creek borders the site on the north. This creek has been designated as Freshwater-2 (FW-2) by NJDEP. FW-2 criteria state that such waters should "be suitable for maintenance, migration, and propagation of the natural ecosystem and support biota." Peach Island Creek joins Berrys Creek Canal approximately 1500 feet northwest of the site. Berrys Creek Canal joins the Hackensack River approximately 2 miles downstream of its confluence with Peach Island Creek. According to NJDEP, designated uses for Berrys Creek and the Hackensack River include "secondary contact recreation; the maintenance and migration of fish populations; the migration of diadromous fish; the maintenance of wildlife and other reasonable uses." The Hackensack River enters the Atlantic Ocean in the Newark Bay approximately 7 miles south of the site. Contamination of Peach Island Creek would pose a threat of contamination to these other navigable waters.

18. Visual observations by EPA and NJDEP of discoloration of and leachate seepage into Peach Island Creek noted during various site inspections indicate possible contamination of surface water, creek sediment, soil, and groundwater.

19. The site is on the National Priorities List ("NPL"), 40 CFR Part 300, Appendix B, which has been issued pursuant to Section 105(8)(b) of CERCLA, 42 U.S.C. §9605(8)(b).

20. In order to determine the nature and extent of the release and threatened release at the site, and to select an appropriate remedial alternative, a remedial investigation and feasibility study (RI/FS) must be conducted in conformance with the National Contingency Plan, 40 CFR Part 300. The Work Plan submitted pursuant to paragraph 24, below, which will be appended hereto and labelled Appendix I upon approval by EPA, has been prepared by Respondents for use in performing the RI/FS.

21. On September 30, 1985 EPA issued an Administrative Consent Order, Index No. II-CERCLA-50114, to 108 other Respondents (hereinafter "the Consenting Parties"), who are also responsible parties with respect to the site. Respondents hereto have been given an opportunity to discuss with EPA the basis for issuance of this Order and its terms.

DETERMINATION BY THE REGIONAL ADMINISTRATOR

22. Based on the above Findings, and the entirety of the administrative record, and pursuant to Section 106(a) of CERCLA, the Regional Administrator has determined that the release and threatened release of one or more hazardous substances from the facility may present an imminent and substantial endangerment to the public health, welfare and/or the environment.

ORDER

23. Based on the foregoing, it is hereby ordered that the Respondents shall undertake a remedial investigation and feasibility study at the facility in accordance with the requirements specified below. All activities performed pursuant to this Order shall be completed as soon as practicable even though time periods for their completion may be specified herein or in the Work Plan. In carrying out any and all activities required of Respondents under the terms of this Order, Respondents shall fully participate in the efforts of, and cooperate with, the Consenting Parties who are Respondents to the above-referenced Consent Order, Index No. II-CERCLA-50114.

24. Remedial Investigation/Feasibility Study Work Plan

A. The Consenting Parties have submitted to EPA a work plan for the performance of a Remedial Investigation/Feasibility Study ("RI/FS Work Plan"). EPA has reviewed the RI/FS Work Plan for consistency with the National Contingency Plan, 40 CFR Part 300, EPA's "Guidance on Remedial Investigations Under CERCLA, May, 1985," and EPA's "Guidance on Feasibility Studies Under CERCLA, April, 1985." EPA has commented thereon in writing to the Consenting Parties, and the Consenting Parties have had an opportunity to meet with EPA and discuss such comments before they became final. The Consenting Parties have amended the RI/FS Work Plan as required by those comments or as otherwise approved by EPA and have submitted the amended RI/FS Work Plan to EPA. EPA will make the final determination as to the sufficiency of the RI/FS Work Plan submitted by Respondents. At such time as EPA determines that the RI/FS Work Plan is acceptable, EPA will transmit to the Consenting Parties a written statement to that effect, and the RI/FS Work Plan will be appended to this Order and labelled Appendix I.

25. Remedial Investigation

A. According to the schedule presented in the EPA-approved RI/FS Work Plan ("the Work Plan") attached as Appendix I, Respondents shall submit to EPA for review and approval a detailed Site Operations Plan for the performance of a Remedial Investigation (RI) in conformance with the National Contingency Plan, EPA's "Guidance on Remedial Investigations Under CERCLA, May 1985," and the Work Plan of this Order. The Site Operations Plan shall fully describe how those activities called for in the

Work Plan will be implemented, and shall include but should not necessarily be limited to the items in Task 2, Section 2.4.2. (Site Operations Plan) of the Work Plan and items i through x, below:

- i. a detailed map of the site depicting all sampling locations;
- ii. the number and types of samples to be obtained at each sampling location;
- iii. the overall management plan, including identification of contractors and subcontractors and their respective responsibilities for performance of the specific tasks set forth in Appendix I;
- iv. a detailed schedule for performance of the specific tasks;
- v. a Quality Assurance/Quality Control (QA/QC) plan for all investigations to be performed [the QA/QC plan shall be completed in accordance with Section 10 of the publication, Test Methods for Evaluating Solid Waste (SW-846) and the guidance appended hereto and labelled Appendix II];
- vi. provision for completing a QA/QC evaluation of laboratory data (to validate the data) within 2 weeks of completion of laboratory analyses;
- vii. a description of the chain of custody procedures to be followed, which shall conform to those set forth in Section 1.3 of SW-846;
- viii. a Health and Safety plan;
- ix. a Contingency plan for conducting site activities; and
- x. the curriculum vitae of all professionals expected to perform the RI, and a description of the responsibilities and the anticipated levels of effort of each such professional.

B. EPA will review the Site Operations Plan and comment thereon in writing. EPA will address its comments to the conformance of the Site Operations Plan with sound management, engineering and scientific practices; technological feasibility; established environmental monitoring procedures; and consistency with the Work Plan. EPA will include in its comments an explanation of the basis of its comments. Within 5 business days of receipt of EPA's comments, Respondents will have an opportunity to meet with EPA to discuss such comments before they become final. Within 7 days of Respondents' receipt of the written final EPA comments, Respondents shall amend the Site Operations

Plan as required by those comments or as otherwise approved by EPA and submit the modified document to EPA.

C. EPA will make the final determination as to the sufficiency of the Site Operations Plan. At such time as EPA determines that the SOP is acceptable and in conformance with the NCP, EPA will transmit to Respondents a written statement to that effect.

D. Respondents shall perform the RI in conformance with the approved SOP and the Work Plan pursuant to the schedule set forth in the Work Plan. Respondents shall complete all activities specified therein and shall submit to EPA for review and approval a report detailing the results of the remedial investigation ("Preliminary RI Report").

E. EPA will review the Preliminary RI Report and comment thereon in writing; EPA will include an explanation of the basis of its comments. Within 5 business days of receipt of EPA's comments, Respondents will have an opportunity to meet with EPA to discuss such comments before they become final. Within 30 days of the receipt of such written final EPA comments, Respondents shall amend the said Report as required by those comments or as otherwise agreed upon by EPA, and shall promptly submit the amended report to EPA ("the RI Report"). EPA may, if necessary to accomplish the goals of the RI/FS as stated in the approved Work Plan, require the performance of additional investigatory work consistent with the provisions of the National Contingency Plan and in conformance with a schedule to be set forth by EPA.

F. EPA will make the final determination as to the sufficiency of the RI Report and any additional studies. At such time as EPA determines that the RI Report is acceptable and in conformance with the NCP, EPA will transmit to Respondents a written statement to that effect.

26. Feasibility Study

A. Respondents shall perform a Feasibility Study in conformance with the following: National Contingency Plan, 40 CFR Part 300 (including 40 CFR 300.68(a) through (j)); EPA approved Work Plan (Appendix I), Section 3.0, Tasks 7-12; and EPA's "Guidance on Feasibility Studies Under CERCLA, April 1985."

B. Respondents shall perform the Feasibility Study (FS) in conformance with the Work Plan pursuant to the schedule set forth in the Work Plan. Respondents shall submit to EPA for review a Preliminary Feasibility Study Report which shall include a recommended remedial alternative. EPA will review and comment on the Preliminary FS Report.

C. Within 15 days of receipt of written final EPA comments on the Preliminary FS Report, Respondents shall modify that report as may be necessary to conform with such comments and submit the modified report to EPA for approval, and/or shall initiate such additional engineering evaluations as EPA finds necessary, in accordance with a schedule set forth by EPA. With the Preliminary FS Report, as amended, Respondents also shall submit a conceptual design for the recommended remedial action and the design shall conform to a format acceptable to EPA. The Preliminary FS Report, as amended, and the conceptual design for the recommended remedial action shall constitute the "Draft FS Report" for publication pursuant to paragraph 27.E., below.

D. EPA will make the final determination as to the sufficiency of the Draft FS Report submitted by Respondents. At such time as EPA determines that the Draft FS Report is sufficient, and acceptable for publication pursuant to Paragraph 26.E., below, EPA will transmit to Respondents a written statement to that effect.

E. Following submittal of the Draft FS Report, EPA will announce the availability of both the RI Report and the Draft FS Report to the public for review and comment. Following the public comment period (which may include both written and oral comments), EPA will determine if the Reports should be modified or accepted as submitted, and will so notify Respondents in writing. Within 5 business days of EPA's written determination, Respondents will have an opportunity to meet with EPA to discuss such modifications. Unless otherwise approved by EPA, within 30 days of receipt of EPA's written determination that either the RI Report or the Draft FS Report should be modified, Respondents shall modify either or both of the reports (which may, inter alia, entail a change in the recommended remedial alternative) as directed by EPA or as otherwise approved by EPA, and submit the modified document(s) to EPA. Should EPA require any modification(s), Respondents reserve their right to comment on, or disagree with these modifications. Respondents' comments on any EPA modification(s) shall be set forth in footnotes in or an appendix to the modified document. EPA regulations, policy and guidance in effect at the time such public comment period is initiated shall govern the procedures to be followed. EPA will make the final determination in any dispute regarding the sufficiency of the RI Report and the FS Report.

F. The Final FS Report shall not select a remedial alternative. EPA will make the final selection of the remedial alternative(s) to be implemented.

27. Sampling and Reporting

A. Upon request by EPA, Respondents shall provide EPA or its designated representatives with a reasonable number of duplicate and/or split samples of any samples collected in furtherance

of work performed in accordance with this Order.

B. The Respondents shall provide monthly written progress reports to EPA. At a minimum, these progress reports shall: (1) describe all actions and activities undertaken toward achieving compliance with this Order, and (2) include all plans and procedures completed subsequent to EPA approval of the RI/FS Work Plan, during the past month as well as such actions and plans which are scheduled for the next month. These reports are to be submitted to EPA by the tenth day of each month following the effective date of this Order.

C. Upon request by EPA, all data and information, including raw sampling and other monitoring data, generated pursuant to this Order by Respondents or on behalf of Respondents, shall immediately be made available to EPA or its designated representatives.

D. Respondents shall give EPA four (4) business days advance notice of the following expected activities under this Order: all monitoring well activities, including but not limited to drilling, installation and testing, and all on-site and off-site sampling activities.

E. EPA and the Respondents agree that each shall preserve, during the pendency of this Order and for a minimum of six (6) years after its termination, all data, records and documents in their possession or in the possession of their divisions, employees, agents, accountants, contractors, or attorneys, concerning the implementation of work under this Order, despite any document retention policy to the contrary. No data, information, or records shall be destroyed for six years after the termination of work under this Order without either the express written approval of EPA, or a written offer by Respondents to provide such material to EPA followed by EPA's written rejection of that offer. After this six year period, the Respondents shall notify EPA within 30 days prior to the destruction of any such documents. Upon request by EPA, the Respondents shall make available to EPA such records or copies of any such records unless otherwise privileged under law.

F. All records prepared or compiled by Respondents and delivered to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by a Respondent in conformance with 40 CFR Part 2. Records so identified shall be treated as confidential only in accordance with the applicable confidentiality regulations. Sampling and other monitoring data, and hydrological and geological information, may not be considered confidential. Furthermore, it is understood by the parties that EPA may release all such records to the NJDEP.

G. The original and nine copies of all correspondence, reports, work plans and other writings required under the terms of

this Order to be submitted to EPA shall be sent by certified mail, return receipt requested to:

Chief, Site Investigation and Compliance Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
26 Federal Plaza
New York, New York 10278

Attention: SCP-Carlstadt Project Officer

One copy of all such writings shall be transmitted by certified mail, return receipt requested to:

Chief, Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency
Room 437
26 Federal Plaza
New York New York 10278

Attention: SCP-Carlstadt Site Attorney

28. EPA Communications and Decisions

A. Written communications from EPA to Respondents will be sent by certified mail, return receipt requested to:

Respondents' Facility Coordinator
(address to be determined)

Thomas M. Armstrong, Counsel
Corporate Environmental Programs
General Electric Company
3135 Easton Turnpike-W1A
Fairfield, CT 06431.

B. As appropriate during the course of implementation of the remedial actions under this Order, Respondents or their consultants or contractors, acting through the Facility Coordinator, may confer with the EPA concerning those actions. Based upon new circumstances or new information not in the possession of EPA on the date of this Order, the Facility Coordinator may request, in writing to EPA, approval of a modification of the EPA-approved Work Plan. If approved by the EPA, such modifications shall be implemented immediately by Respondents.

C. All decisions of EPA under this Order, including approvals; disapprovals; grants or denials of requests for extensions of time; and requests for modifications of reports, work plans, specifications, schedules and other work outputs will be communicated in writing to Respondents by the Chief, Site Investigation and Compliance Branch, U.S. Environmental Protection

Agency, 26 Federal Plaza, New York, New York 10278.

D. No informal advice, guidance, suggestions or comments by EPA or NJDEP regarding reports, plans, specifications, schedules or any other writings submitted by Respondents shall be construed as relieving Respondents of their obligation to obtain such formal approvals as may be required by this Order. However, oral approvals may be obtained for minor matters if they are confirmed in writing within 2 business days.

29. Respondents' Facility Coordinator
and EPA Inspection Authority

A. Respondents, together with the Consenting Parties to Administrative Order Index No. II-CERCLA-50114, shall provide EPA with the name, title, address, phone number and qualifications of their designated Facility Coordinator, who shall be responsible for oversight of the implementation of this Order, including all activities required herein. The Facility Coordinator shall have technical expertise sufficient to adequately oversee all aspects of the work contemplated by this Order. All correspondence and other writings from EPA to Respondents shall be made available to the Facility Coordinator. Counsel for Respondents shall not be eligible to be Facility Coordinator. Respondents shall have the right to change their Facility Coordinator at any time. However, Respondents shall notify EPA in writing at least five (5) working days prior to any such change. If such advance notice is not feasible, notice shall be given by the best means and as far in advance as possible under the circumstances.

B. EPA and EPA's representatives, including but not limited to their employees, agents, contractors and consultants, shall have authority to observe the work being carried out pursuant to this Order, for the purposes of inspecting and observing Respondents' progress in implementing the requirements of this Order, or for the purpose of verifying the data submitted to EPA by Respondents concerning such implementation. To the maximum extent possible under the law, Respondents shall forthwith honor all requests by EPA or its representatives to observe the work being carried out pursuant to this Order and also, at reasonable times, shall permit such persons to inspect and copy all writings, including all data, in any way pertaining to work undertaken pursuant to this Order. Respondents shall not be required to permit anyone who is not bound by EPA's confidentiality regulations to inspect or copy any writing which is entitled to confidential treatment under Title 40 CFR Part 2. Notwithstanding the above, EPA hereby retains all its inspection authority under CERCLA and the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. NJDEP and its designated representatives, as well as any EPA contractor and its representatives, shall be eligible to be designated representatives of EPA under this paragraph.

C. Respondents shall not interfere with EPA access to the Site or any other premises upon which work under this Order may be performed. Further, to the extent practicable and within their rights and abilities to do so, (including bringing the terms of this paragraph to the attention of their selected contractors) Respondents shall support and assist EPA in obtaining access to the site and other premises at which work in furtherance of the requirements of this Order is carried out, and shall similarly support and assist EPA in exercising its inspection and other authority under this provision including, but not limited to review and copying of records.

30. Enforcement Actions

A. In the event that Respondents fail to adhere to any requirement of this Order; or, notwithstanding compliance with the terms of this Order, upon the occurrence or discovery of a situation as to which EPA would be empowered to take any further response action(s), including but not limited to the prevention or abatement of an imminent and substantial endangerment to the public health, welfare or the environment arising from conditions at the facility; or under any other circumstances authorized by law and not inconsistent with terms of this Order, EPA reserves the right to, after notice to Respondents and other identified potentially responsible parties, institute federally-funded response activities and subsequently pursue cost recovery actions available, and/or EPA may issue orders to Respondents pursuant to available statutory authority. Respondents do not hereby consent to any future action taken by EPA under this paragraph.

B. EPA reserves its right to bring an action against Respondents pursuant to Section 107 of CERCLA, 42 U.S.C. §9607, for recovery of any costs incurred in oversight of Respondents' implementation of this Order, and any other costs incurred by EPA in connection with investigative or response activities at the Site (to include all costs associated with EPA's performance of the RI/FS or any part thereof, in the event that Respondents fail to complete the RI/FS in conformance with the requirements of this Order).

C. Violation of this Order as a result of Respondents' failure to comply with any provision herein, including but not limited to any failure to comply with any EPA-approved work plan prepared in compliance herewith, shall be enforceable pursuant to §§106(b) and 113(b) of CERCLA, 42 U.S.C. §§9606(b) and 9613(b). Respondents may also be subject to civil penalties of up to five thousand (\$5,000) dollars per day, cost recovery, and punitive damages of up to three (3) times the amount of any costs incurred by EPA under this Order as provided in §§106(b), 107(a), and 107(c)(3) of CERCLA, 42 U.S.C. §§9606(b), 9607(a), 9607(c)(3), for failure to comply with the terms of this Order. Nothing herein shall preclude EPA from taking any additional enforcement actions, and/or additional actions as it may deem

necessary for any purpose, including the prevention or abatement of an imminent and substantial danger to the public health, welfare, or the environment arising from conditions at the Facility and recovery of costs thereof; nor shall anything herein preclude DEP from taking legal action pursuant to State law.

31. General Provisions

A. This Order shall be effective on the fourth working day following the date on which it is received by Respondents.

B. All work conducted pursuant to this Order shall be performed in accordance with prevailing professional standards.

C. All actions performed by Respondents in implementing this Order shall be in compliance with all applicable federal, state, and local laws and regulations, including but not limited to 40 CFR, Part 300. Respondents shall be responsible for obtaining all necessary permits, licenses and other authorizations.

D. The Work Plan, Site Operations Plan, the RI Report and the Draft FS Report, in addition to all other reports, work plans and other writings required under the terms of this Order, upon approval by EPA, are incorporated into this Order.

E. Neither the United States Government nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondents, their officers, directors, employees, agents, servants, receivers, trustees, successors, or assignees, or of any persons, including but not limited to firms, corporations, subsidiaries, contractors or consultants, in carrying out activities pursuant to this Order, nor shall the United States Governments or any agency thereof be held out as a party to any contract entered into by Respondents in carrying out activities pursuant to this Order.

F. This Order shall apply to and be binding upon Respondents and Respondents' heirs, successors, and assigns.

G. Respondents shall use their best efforts to avoid or minimize any delay or prevention of performance of their obligations under this Order. Respondents shall provide written notification to EPA of any circumstances which have caused or which Respondents believe are likely to cause a delay of performance. Such written notice: 1) shall be provided as soon as possible, but not later than ten (10) days after the date when Respondents knew or should have known of the occurrence of such circumstances; 2) shall be accompanied by all available documentation, including but not limited to third-party correspondence; and 3) shall include a) a description of the circumstances causing or potentially causing the delay; b) the actions (including pertinent dates) that Respondents have taken and/or


plan to take to minimize any delay; and c) the date by which or time period within which Respondents propose to complete delayed activities. Such notification does not relieve the Respondents of any obligation under this Order.

H. Nothing in this Order constitutes a decision on pre-authorization of funds under Section 111(a)(2) of CERCLA.

I. Not later than three days from the date this Order is received by Respondents, Respondents, or any of them, may confer with EPA to discuss this Order, including its applicability, the Findings upon which the Order is based, the appropriateness of any action or activity required to be undertaken herein, or any other issues or contentions directly relevant to the issuance of this Order which Respondents, or any of them, may have regarding this Order. Such conference is not, and shall not be deemed to be, an adversary proceeding or part of a proceeding to challenge this Order, and no official stenographic record of such proceeding shall be kept. Any Respondent requesting a conference under this paragraph may appear at such conference in person or by an attorney or other designated representative. In the event that EPA deems the number of requests for conferences by individual Respondents unmanageable, EPA reserves the right to limit the number of such conferences to representatives of groups or committees of Respondents, consistent with the preservation of the rights of Respondents to be heard. Any request for a conference shall be made to Ms. Kathleen Chojnowski, Attorney, Superfund Branch, Office of Regional Counsel, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, 10278, telephone (212) 264-2211.

IT IS SO ORDERED:

U.S. ENVIRONMENTAL PROTECTION AGENCY



CHRISTOPHER J. DAGGETT
Regional Administrator
U.S. Environmental Protection Agency
Region II
26 Federal Plaza
New York, New York 10278

OCTOBER 22 1983
DATE